



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: November 17, 2020
MOAHR Docket No.: 20-006560
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, an administrative hearing was held on November 12, 2020.

Petitioner appeared unrepresented.

The Department of Health and Human Services (Department) was represented by Lianne Scupholm, Hearings Facilitator.

Department Exhibit A.20 was offered and admitted into the record.

Petitioner did not submit any exhibits.

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) allotment?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner has been a beneficiary of the FAP program.
2. On September 30, 2020, the Department issued a Notice of Case Action informing Petitioner that her FAP benefits will close effective October 1, 2020, due to Petitioner's failure to complete the redetermination process due to Petitioner not being available for the phone interview. Exhibit A.7-12.

3. On October 6, 2020, Petitioner filed a hearing request protesting the closure.
4. On October 5, 2020, Petitioner reapplied.
5. On October 7, 2020, the Department opened Petitioner's FAP case effective to the date of reapplication of October 5, 2020, at \$16.00 per month.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Corresponding federal regulations are found primarily at 7 CFR 273.2 and 273.9.

In this case, Petitioner argues that her FAP case should not have closed on the grounds that her worker never contacted her to do the phone interview. The Department argues that documentation by the worker found at A.14 indicates that the worker was unable to reach Petitioner for a phone interview and left a voice mail message.

Petitioner also argues that she is eligible for more FAP benefits than \$16.00 per month. The Department argues that the FAP budget used in calculating the \$16.00 allotment is correct.

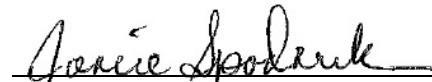
Individuals who are asserting eligibility for welfare benefits have the burden of proof by a preponderance of evidence. Here, that burden falls on Petitioner.

After a careful review of the credible and substantial evidence of record, the undersigned finds that this issue as to whether Petitioner can meet her burden of proof when she failed to submit phone records need not be addressed as regardless, Petitioner received all the FAP benefits that she was entitled to receive under these facts. Petitioner offered no verification of any income, expenses, or deductions that would change the ultimate monthly allotment supported by the Department's FAP budget. Thus, Petitioner has not met her burden of proof and the Department's actions must be upheld.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

JS/ml



Janice Spodarek
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Carisa Drake
Calhoun County DHHS – via electronic
mail

BSC3 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

[REDACTED] – via first class mail
MI [REDACTED]